

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2006-094145

01/19/2012

HONORABLE JAMES P. BEENE

CLERK OF THE COURT

C. Gauna

Deputy

IN RE THE MATTER OF  
APRIL KLEINMAN

APRIL KLEINMAN  
34909 N OPEN RANGE DR  
QUEEN CREEK AZ 85142

AND

REED L KLEINMAN

REED L KLEINMAN  
1095 W MAGNOLIA  
PHOENIX AZ 85007

FAMILY COURT SERVICES-CCC

**UNDER ADVISEMENT ORDER**

On January 11, 2012, Petitioner/Mother filed a motion for post-decree temporary order without notice for modification of child custody, parenting time and child support. On January 18, 2012, the Court held an emergency hearing regarding Mother's motion. Mother and Respondent/Father testified at the hearing. Based on the testimony and evidence presented at the hearing, the Court issues the following temporary order.

**RELOCATION**

Mother seeks to relocate outside the state with the parties' two (2) youngest minor children.<sup>1</sup> A.R.S. § 25-408(I) sets forth the factors to be considered in determining if relocation is in the best interests of the minor children. In making this finding, the Court considered the factors set forth in A.R.S. §§ 25-403(A) and 408(I) and finds as to those factors:

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<sup>1</sup> Mother is not requesting that the parties' two (2) oldest children relocate with her to Alaska at this time. The "minor children" in this order refer to the parties' two (2) youngest children.

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**A.R.S. § 25-403(A)**

1. ***The wishes of the children's parents as to custody.*** On February 22, 2007, the Court awarded the parties joint legal custody of the minor children. At the January 18, 2012 hearing, neither party requested a modification of the Court's previous legal custody order.
2. ***The wishes of the children as to the custodian.*** Mother testified that the minor children wish to relocate with her to Alaska.
3. ***The interaction and interrelationship of the children with the children's parents, the children's siblings and any other person who may significantly affect the children's best interest.*** The minor children have a good and strong relationship with Mother and Father. The minor children also have a strong relationship with their two (2) older siblings.
4. ***The children's adjustment to home, school and community.*** Based upon the evidence presented at the hearing, the minor children seem to be well-adjusted to both parent's homes.
5. ***The mental and physical health of all individuals involved.*** No adverse evidence was presented regarding the mental and physical health of Mother, Father or the minor children.
6. ***Which parent is more likely to allow the children frequent and meaningful continuing contact with the other parent.*** Based on the testimony and evidence presented at the hearing, the Court finds that both parents are likely to allow the minor children frequent, meaningful and continuing contact with the other parent.
7. ***Whether one parent, both parents, or neither parent has provided primary care of the children.*** Based on the testimony and evidence presented at the hearing, the Court finds that Mother has historically provided the primary care for the minor children.
8. ***The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding custody.*** No evidence was offered regarding this factor.

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9. ***Whether a parent has complied with chapter 3, article 5 of this title.*** No evidence was offered at the hearing regarding this factor.
10. ***Whether either parent was convicted of an act of false reporting of child abuse or neglect under section 13-2907.02.*** No evidence was offered at the hearing regarding this factor.
11. ***Whether there has been domestic violence or child abuse as defined in section 25-403.03.*** No evidence was presented at the hearing regarding this factor.

**A.R.S. § 25-408(I)**

1. ***Whether the relocation is being made or opposed in good faith and not to interfere with or to frustrate the relationship between the children and the other parent or the other parent's right of access to the children.*** Based on the testimony and evidence presented at the hearing, the Court finds that Mother is not requesting relocation with the minor children in order to interfere or frustrate the relationship between Father and the minor child or Father's access to the minor children. Similarly, Father is not opposing Mother's requested relocation in order to frustrate the relationship between Mother and the children. Mother testified that it would be in the best interest of the minor children to reside with her in Alaska. Similarly, Father testified that it would be in the best interest of the minor children to remain in Arizona.
2. ***The prospective advantage of the move for improving the general quality of life for the custodial parent or for the children.*** Mother presented evidence that represented that the minor children's general quality of life would improve if allowed to relocate to Alaska. Mother stated that she has procured a job as a clerk with the federal district court in Alaska and her annual salary will increase \$12,000.00 per year with her new employment. Mother is requesting to relocate to Alaska because she has been struggling financially for the last five (5) years. In addition, Mother has extended family in Alaska that will provide her with an additional support system. The totality of the circumstances presented at the hearing establish that the minor children's general quality of life would be better if allowed to relocate with Mother to Alaska.

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3. ***The likelihood that the parent with whom the children will reside after the relocation will comply with parenting time orders.*** Based upon the evidence presented at the hearing, the Court finds that both parties will comply with the Court's parenting time order.
4. ***Whether the relocation will allow a realistic opportunity for parenting time with each parent.*** Currently, Father has care of the minor children every other weekend and two (2) weeks during summer vacation. The Court finds that even with the minor children's relocation to Alaska, Father will have a realistic opportunity for parenting time with the minor children commensurate with the parenting time he currently exercises.
5. ***The extent to which moving or not moving will affect the emotional, physical or developmental needs of the children.*** The minor children subject to Mother's relocation request are both females, who are ten (10) and eleven (11) years old. The Court agrees that the minor children's emotional and developmental needs will be better met at this time if allowed to primarily reside with Mother.
6. ***The motives of the parents and the validity of the reasons given for moving or opposing the move including the extent to which either parent may intend to gain a financial advantage regarding continuing child support obligations.*** The Court finds that both parents have proffered valid reasons for their respective positions regarding the issue of relocation. Mother believes that she will be able to provide a better quality of life for the minor children in Alaska. Conversely, Father believes that it would be in the minor children's best interest to remain in familiar surroundings in Arizona. Although the Court does find that Father has offered valid reasons in objecting to Mother's requested relocation, the Court does find that it is in the overall best interest of the children to relocate with Mother to Alaska at this time.
7. ***The potential effect of relocation on the children's stability.*** Based on the testimony and evidence presented at the hearing, the Court finds that allowing the minor child to relocate and reside with Mother in Alaska would have an overall positive affect on the minor children's stability and would be in their best interest.

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Based on the testimony and evidence presented at the January 18, 2012 hearing; and the factors set forth in A.R.S. §§ 25-403 and 408(I),

**IT IS ORDERED** granting Mother's emergency request for relocation.<sup>2</sup>

**PHYSICAL CUSTODY**

As part of the joint legal custody award, Mother shall be designated as the primary residential parent. Father's parenting time shall be as follows:

1. Spring Break. Father shall have parenting time with the minor children in Arizona during their Spring Break.
2. Summer Vacation. Father shall have parenting time with the minor children in Arizona from June 1 through July 18, 2012.
3. Miscellaneous. Father may visit the minor child for up to four (4) weekends during Mother's scheduled parenting time provided Father gives Mother four (4) weeks written notice. Father's weekend parenting time shall occur in Alaska and Father shall not leave the state for any reason during said parenting time. Father shall inform Mother where he is staying during this parenting time and shall provide Mother with a telephone number and address where Father and the minor child can be contacted during the weekend. If Father does not provide this information to Mother before the weekend parenting time, Mother may refuse to provide the minor child to Father. Father shall be solely responsible for the expenses incurred for this parenting time.

Father shall pay the expenses for the travel of the minor children to Arizona for his parenting time and shall also pay for his expenses to accompany the minor children during said travel, if necessary. Mother shall pay the expenses for the travel of the minor children to return to Alaska and shall also pay for her expenses to accompany the minor children during said travel, if necessary.

The parents shall allow the other to have reasonable telephonic and/or Skype communication with the minor children. Neither party shall disrupt the contact between the

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<sup>2</sup> Because the parties were given limited time at the emergency hearing in which to present their evidence regarding Mother's request for relocation, the Court will allow Father to re-urge his objection to Mother's requested relocation at the parties' evidentiary hearing currently set for July 17, 2012 at 2:00 p.m.

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minor children and the other parent. If the minor children are not available and a message is left requesting a return call, the return call shall be placed within twenty-four (24) hours. The minor children shall be given sufficient privacy to receive and carry out the telephone call, such that a parent shall not overhear their conversation

Neither parent shall take the children outside of the United States without prior written consent of the other parent or court order. Mother shall not relocate the residence of the children without prior written consent of the other parent or court order.

**CHILD SUPPORT**

Based upon the evidence presented at the emergency hearing,

**IT IS ORDERED that Father shall pay child support to Mother in the total amount of \$400.00 per month, commencing March 1, 2012.** All payments shall be made through the Support Clearinghouse via an automatic Order of Assignment issued this date. Father is advised that until such time as the Order of Assignment becomes effective, Father has an affirmative obligation to pay the child support directly to the Support Clearinghouse.

LET THE RECORD REFLECT an Order of Assignment is initiated electronically by the above-named deputy clerk.

**IT IS FURTHER ORDERED** signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

DATED the 19th day of 2012

/S/ HONORABLE JAMES P. BEENE

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JAMES P. BEENE  
JUDGE OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.

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Attachments:

REED L KLEINMAN: Current Employer Information, Non IV-D Payment Instructions